

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 3 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 3 is consider vague and indefinite because “both positions” has not been defined. Also, the limitation “the pivoting effect ends of about 20-60 with the plane...” is unclear and confusing.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1, 2, 4-10, 14 and 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Marks (GB 2,374,066). Marks teaches a cover for a container (disclosed in Abstract) having an upper surface and side edges, shown in the figures. The folding seam extends through the center of the lid. The ridge is located at the sides of hinge line.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. To the degree claim 3 is understood, in view of the rejection under 35 U.S.C. 112, second paragraph above, claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marks (GB 2,374,066). Marks discloses the claimed invention except for the pivoting ending about 20-60 with the plane of the underside. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid of Marks with the pivoting ending about 20 -60, since it has been held that “where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation.” *In re Aller*, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955).

8. Claims 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Marks (GB 2,374,066) in view of Kent (U.S. 4,733,794). Marks discloses the claimed invention except for the lid being made of hard plastic (claim 11) and the lid being injection molded (claim 13). Kent teaches that it is known to provide a lid made of hard plastic using injection molding techniques (see col.1 lines 33-43). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the lid of Marks with the lid being made of hard plastic using an injection molding technique, in order to use a strong material and a well known widely used manufacturing technique.

9. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Marks (GB 2,374,066) in view of Kester (U.S. 5,323,898). Marks discloses the claimed invention except for the lid being thermoformed. Kester teaches that it is known to provide a lid using thermoforming (see col.4 lines 32-41). It would have been obvious to one having ordinary skill in the art at the time the invention was made

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to provide the lid of Marks with the lid being made by thermoforming, in order to use a well known widely used manufacturing technique.

***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The prior art is cited for the hinge arrangement.

11. THIS ACTION IS NON-FINAL.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to NIKI M. ELOSHWAY whose telephone number is (571)272-4538. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anthony Stashick can be reached on 571-272-4561. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Niki M. Eloshway/  
Niki M. Eloshway  
Examiner  
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nme

